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SUBJECT: KAZAKHSTAN PARLIAMENTARY ELECTIONS:
MISSED OPPORTUNITY FOR ALL

REF: A) Astana 1558, B) Astana 1906,
C) Astana 1949, D) Astana 2221,
E) Astana 2222, F) Astana 2223,
G) Astana 2244

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¶11. (SBU) Summary: Political parties competing in the August 18 Mazhilis elections had more freedom to campaign than ever before, the Central Election Commission operated professionally and transparently, and the voting process on election day was relatively smooth and fair. However, this progress was marred by a new legal framework that fails to meet a number of OSCE commitments and Council of Europe standards and significant problems with the conduct and transparency of the vote counting process after the polls closed. The outcome of the elections will also impact the debate about Kazakhstan's progress on the path to a more democratic system: the overwhelming victory for President Nazarbayev's Nur Otan party sets up a parliament consisting solely of Nur Otan members, undermining Kazakhstan's claim that its recent constitutional reforms will create a more open and democratic political system. In the end, the Government of Kazakhstan missed the opportunity offered by the elections to show conclusive proof of its progress toward a more open and democratic system. End summary.

NUR OTAN WINS 88% OF THE VOTE, TAKES EVERY MAZHILIS SEAT

¶12. (SBU) According to the preliminary election results released by the Central Election Commission (CEC) on August 19, President Nazarbayev's Nur Otan party received 88% of the votes (5.174 million votes). No other party reached the 7% threshold necessary to win seats in the Mazhilis. The National Social Democratic Party finished second with 4.6% of the vote; Ak Zhol received 3.27%, Aul 1.58%, Communist People's Party 1.31%, Patriot's Party .75%, and Rukhaniyat .41%. The CEC announced that 64.56% of the electorate voted, and turnout ranged from a high of 90.12% in Almaty oblast to a low of 22.51% in Almaty city. According to election observers, turnout was much higher in rural areas than in urban centers. Two Kazakhstani organizations, Ksilon Astana and the Kazakhstan Association of Sociologists and Political Scientists, released exit polls showing Nur Otan winning approximately 80% of the vote and NSDP and Ak Zhol both hovering at or slightly below 7% of the vote. However, Post does not have sufficient information about the methodology of either poll to judge their accuracy.

¶13. (SBU) Citing exit polls showing a huge victory for Nur Otan, President Nazarbayev joined 3000 of his supporters at an outdoor victory celebration in Astana on election night, complete with fireworks and silver ticker tape. "When we get the final results tomorrow, the country will start a new political system," Nazarbayev

said. Speaking on August 20, after the release of the preliminary results, Nazarbayev celebrated the high voter turnout and said that the results show the country is pursuing the right policies. "Honest and fair elections took place in which all political parties in the country participated. Unfortunately other parties couldn't pass the 7% barrier, but we shouldn't make a tragedy of that." (Note: Nazarbayev spoke before a session of the Assembly of the People of Kazakhstan, during which the Assembly exercised its new constitutional power to select nine members of the Mazhilis. (Ref C) The process was uncontested and largely ceremonial. End note.)

OPPOSITION ALLEGES FRAUD, REFUSES TO RECOGNIZE RESULTS

¶4. (SBU) Opposition leaders condemned the process and refused to recognize the results. The NSDP called the results "a direct consequence of totalitarian processes" and "a rollback to the Soviet past," charging that the government thwarted the will and expectations of millions of citizens and "massively falsified" the results. Among other things, the NSDP said that the 64.56% turnout was inflated through the unlawful use of administrative resources, orchestrated multiple votes, ballot box stuffing, manipulation of voter lists, and the complicity of precinct election commissions which had few opposition representatives. The NSDP also alleged that precinct election commissions openly hindered the work of election observers and party representatives at the polling places in vote counting stations. The NSDP is compiling its evidence of these violations, and plans to file numerous court claims in an attempt to void the election results. According to press reports, party leader Zharmakhan Tuyakbay plans to stage a protest on August 30 or 31, though he stressed the party intends to defend its position "within the Constitution."

¶5. (SBU) Ak Zhol also released a statement decrying the election results and demanding a recount and investigation. Ak Zhol refused to recognize the preliminary results released by the CEC, citing

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"mass rigging and falsifications of the voting results at all levels." The party called the election "a step backwards in the political development of Kazakhstan," and reserved the right to carry out "any forms of civil protest allowed by the law of Kazakhstan." In multiple conversations with Embassy officers prior to the election, both NSDP and Ak Zhol representatives said they expected to receive between 20 and 30% of the vote. (Comment: These estimates seemed overly optimistic. End Comment)

ELECTION FALLS SHORT OF OSCE STANDARDS

¶6. (U) The OSCE/ODIHR International Election Observation Mission released its Statement of Preliminary Findings and Conclusions on August 19, the day after the election. ODIHR said that the elections "reflect welcome progress in the pre-election process and during the conduct of the vote," but that a "number of OSCE commitments and Council of Europe standards were not met, in particular with regard to elements of the new legal framework and to the vote count."

¶7. (SBU) The ODIHR report commended Kazakhstan for several noticeable improvements over previous elections, and said that the authorities demonstrated a willingness to conduct a more democratic election process. In particular, the report concluded that parties had greater access to media and greater freedom to campaign than in previous elections, and the CEC conducted its work transparently, promised to post all results protocols on its website, and was committed to voter education, improving the quality of voter lists, and developing better mechanisms to hear election related complaints. On election day, the ODIHR report stated that voting was conducted in a generally calm environment, and that observers assessed the voting process positively in 95% of polling stations visited. (Note: This finding concurs with the observations of Embassy monitors, who reported that most election precincts were professionally run and free of major violations. End note.)

¶ 8. (U) In ODIHR's view, however, these improvements were not sufficient to bring Kazakhstan into compliance with OSCE and Council of Europe standards. ODIHR's criticism of the election focused heavily on a number of new legal provisions and the vote counting process after the polls closed. ODIHR concluded that a "combination of restrictive legal provisions creates obstacles to the development of a pluralistic political party system" and "significantly decreases accountability of elected representatives to voters...." In particular, ODIHR cited:

--the excessive requirements for registration of political parties;

--undue limitations on the right to seek public office, including a 10-year residency requirement, a requirement for party membership for candidates, and a lack of provision for independent candidates;

--a high 7% threshold for representation in the Mazhilis (Comment: Even if the threshold had been set at 5%, as some have proposed, no other party would have performed well enough to win seats in the Mazhilis. End comment.);

--provisions that political parties choose after the elections which candidates from their lists will become members of the Mazhilis;

--provisions which require the expulsion of a Mazhilis deputy when the deputy leaves the party, is expelled from the party, or the party is dissolved;

-- the fact that 9 of the 107 Mazhilis seats are not contested by popular vote but are chosen by the unelected Assembly of People of Kazakhstan. This arrangement contradicts Paragraph 7.2 of the 1990 OSCE Copenhagen Document, which requires participating states to "permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote."

¶ 9. (U) The vote counting process was assessed negatively in 43% of the stations visited by the ODIHR observers. The negative assessments were based on numerous procedural violations, obstruction of observers, falsification of signatures on the voter lists or protocols, failure to follow proper counting procedures, counting for Nur Otan votes cast for a different party, and the presence of unauthorized persons, including police, during the counting process. The assessment was worse than in the 2004 Mazhilis elections and the 2005 presidential election; in both cases, 28% of ODIHR observers assessed the vote counting process negatively.

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¶ 10. (SBU) Although there were a few examples of deliberate fraud, ODIHR did not conclude that there was an intentional effort by authorities to manipulate the results during the vote counting. Rather, there were significant enough procedural problems and obstructions such that it could not rule out the possibility of fraud or express confidence in the accuracy of the final tally. ODIHR's findings coincide with the observations of the Embassy monitoring teams, which unanimously reported that election commissions were confused and disorganized during the vote counting process, disregarding procedures and safeguards designed to preserve transparency and prevent fraud. In only one case, though, did there appear to be a deliberate effort to manipulate the final vote count. (Note: ODIHR and other observers will conduct further analysis of the vote count by comparing the signed protocols collected by observers at the precinct level with the official results that will ultimately be released by the CEC.)

¶ 11. (U) Finally, ODIHR described a number of other violations and problems, including that authorities treated Nur Otan favorably during the campaign and blurred the separation between local authorities, lower-level election commissions, and the party; the state media provided overwhelmingly favorable coverage of Nur Otan; the state Russian-language national newspaper censored NSDP's material submitted under a CEC program to provide free column space

for all parties; and national television stations refused to air certain NSDP advertisements. (Note: The full ODIHR report is available at http://www.osce.org/odihr-elections/item_12_25488.html. End note.)

REPORTS FROM OTHER OBSERVERS

¶12. (SBU) The Republican Network of Independent Monitors, a domestic NGO that conducted short-term monitoring in 1917 polling stations in nine oblasts and two cities (Astana and Almaty), released its report on August 20. The report was more negative than the ODIHR report, concluding that election commissions did not recognize observer rights in many cases, measures were implemented to create an artificially high turnout, many voters were unable to vote due to inaccurate voter lists, and vote counting and tabulation processes were filled with procedural violations and a lack of transparency. The report also criticized election commissions for refusing to provide protocols (signed, final results) to observers at many precincts. (Note: The US government provided some of the funding for the Network's election observation activities. End note.)

¶13. (SBU) Predictably, the Commonwealth of Independent states monitoring team, the Shanghai Cooperation Organization monitoring team, and the Public Committee to Monitor Elections, a domestic, pro-government NGO, all concluded that the elections were free and transparent, without any major violations.

OPPOSITION SHUTOUT: HOW DID IT HAPPEN?

¶14. (SBU) Nobody doubted that Nur Otan would be overwhelmingly victorious on August 18, though many observers, and the opposition leaders themselves, genuinely expected that NSDP or Ak Zhol or both would cross the 7% threshold. Three factors explain their failure to do so: the confidence of Kazakhstanis in President Nazarbayev and the direction of the country, the institutional advantages - legal and illegal - of Nur Otan, and the failure of NSDP and Ak Zhol to mount effective campaigns.

¶15. (SBU) President Nazarbayev remains extremely popular, and Kazakhstanis are optimistic about the direction of the country. According to an August 16 INR Opinion Analysis of a US government-commissioned poll in Kazakhstan (conducted July 9-30), 93% of Kazakhstanis are extremely confident about President Nazarbayev, an approval level unchanged from 2005, when he was reelected with 91% of the vote. In addition, 91% of respondents agreed that the country is heading in the right direction, and 83% felt that the economic situation is good. Poll respondents also expressed confidence in the government (72%), the parliament (69%), and local government (65%), and 78% of respondents felt that it is more important for Kazakhstan to have a strong president than to have the executive branch share power with the legislature and judiciary. Thus, even assuming a level playing field and an honest election, the opposition parties faced an uphill battle in trying to convince the electorate of the need for change.

¶16. (SBU) The opposition's uphill climb was further hindered by an uneven playing field. Nur Otan is much larger, better organized, and wealthier than all of the other parties, and enjoys significant institutional advantages. Though opposition parties had greater

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freedom to campaign than in previous years, they still faced some interference from local authorities, media bias, and difficulty accessing advertising space. (Refs B, D, E, F, G) Moreover, the honesty of the vote count is uncertain, as discussed above.

¶17. (SBU) Finally, despite greater freedom to campaign, reduced government interference, and improved media coverage, opposition parties failed to mount vigorous and effective campaigns or develop a focused message that connected with voters. (Ref D, G) By their own admission, the NSDP received only 22% of the vote in their stronghold of Almaty (and just over 22% of Almaty residents turned

out to vote, compared to the national average of 64.56%). In an early effort to deflect criticism of the lopsided result, on August 21 the Government of Kazakhstan distributed a statement to the OSCE Permanent Council in Vienna defending the conduct of the elections and blaming the opposition for their failed campaigns. Among other things, the statement criticized the opposition for being splintered, failing to develop a real and focused political program or organizational structure, lacking charismatic leaders, and spending too much time criticizing the status quo instead of setting forth their own strategic plans for the country.

¶18. (SBU) Barring a conclusive finding by ODIHR that the vote counts announced at the precinct level do not match the aggregated results scheduled for release in Astana, nobody knows whether the shortcomings in the election process were sufficient to keep NSDP and Ak Zhol from crossing the 7% threshold.

THE BIG PICTURE: A MISSED OPPORTUNITY FOR ALL

¶19. (SBU) Comment: The missed opportunity for NSDP and Ak Zhol is obvious: they failed to capitalize on their greater freedom to campaign and communicate with voters. Neither party was able to establish a clear message (one NSDP Mazhilis candidate admitted to Poloff that the NSDP's message "was not very different" from Nur Otan's.) The unwillingness of Ak Zhol and NSDP to collaborate also damaged their chances, as they ultimately undercut each other. Their failure to win seats in the Mazhilis denies them the opportunity to develop a constructive opposition presence in Astana and leaves them with little to build on for future campaigns. While a better, more focused campaign may not have been sufficient to overcome the institutional and historical advantages of Nur Otan or the problems in the election process, the opposition parties missed a chance to strengthen their base and to make an impact on the electorate. In essence, the parties will remain in the wilderness at least until the next election, which is not scheduled until ¶2012.

¶20. (SBU) Comment, continued: Nur Otan is left with the very result - a one-party parliament - that officials in the Presidential Administration told the Ambassador would be undesirable and embarrassing for the government. (Ref F) Increased efforts by central authorities to ensure a fairer election have been overshadowed by Nur Otan's overwhelming victory and a mixed OSCE/ODIHR report. Kazakhstan will move forward with a one-party Mazhilis, undermining its claim to have opened up its political system through recent constitutional reforms. (Ref A) The new Mazhilis is unlikely to take initiative and there will be less room for independent thinking by deputies: under the new constitution, deputies lose their seat if they resign from or are expelled from the party. Furthermore, the result denies both Nur Otan and the opposition the opportunity to sharpen their democratic skills. End Comment.

ORDWAY